



01 OCT 2007

GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO CA 94080

In re Application of :
De Sauvage et al. :
Application No. 10/526,806 :
PCT No.: PCT/US03/27894 :
Int. Filing Date: 05 September 2003 : DECISION
Priority Date: 11 September 2002 :
Atty. Docket No.: P1981R1 :
For: Compositions And Methods For The :
Diagnosis And Treatment Of Tumor :

This is in response to the petition filed on 21 March 2007.

DISCUSSION

In a Decision mailed on 21 September 2006, it was observed that

Inspection of the application papers reveals that the Transmittal Letter filed on 04 March 2005 referred to international application "PCT/US2003/027849" with an international filing date of "05 September 2003," a priority date of "11 September 2002," and entitled "Compositions And Methods For The Diagnosis And Treatment Of Tumor." This information does not correspond to international application "PCT/US2003/027849," but it does appear to correspond to international application PCT/US2003/027894. Therefore, the basic national fee paid on 04 March 2005, in reference to PCT/US2003/027849, was not properly directed to this international application, PCT/US2003/027894. As such, this international application became abandoned with respect to the national stage in the United States for failure to timely pay the basic national fee as of midnight on 05 March 2005.

It is noted that the declaration filed on 08 April 2006 is also directed to international application "PCT/US2003/027849," though it claims benefit of application no. 60/410,166, whose priority is also claimed by international application PCT/US2003/027894. As such, it is not clear that the declaration executes the present application.

In response, applicant filed the instant petition under 37 CFR 1.137(b), which provides that

Unintentional. If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination proceeding terminated under §§ 1.550(d) or 1.957(b) or (c), or a lapsed patent. A grantable petition pursuant to this paragraph must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) *The petition fee as set forth in § 1.17(m);*

(3) *A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and*

(4) *Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.*

The instant response satisfies requirement (1).

The petition fee has been paid, satisfying requirement (2).

The petition includes an appropriate statement of unintentional delay, which satisfies requirement (3).

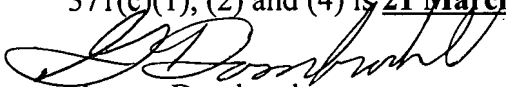
Regarding requirement (4), no terminal disclaimer is required because the international filing date of this international application was later than 08 June 1995. Therefore, the Terminal Disclaimer which accompanied the instant petition was not required to obtain relief under 37 CFR 1.137(b) under the facts presented in this matter.

The transmittal letter, declaration and ADS accompanying the instant petition and directed toward international application PCTUS03/27894 are being accepted into the application. The papers filed on 04 March 2005 and directed to PCT/US03/27849 are being removed from the application file. The fees paid on 04 March 2005 have been applied in the instant application.

CONCLUSION

The petition is GRANTED.

This international application is being returned to the National Stage Processing Branch for further processing as the national stage of PCT/US03/27894. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is 21 March 2007.


George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459